IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 6698 of 2003

Date of decision: January 31,2007.

Dharam Pal and others

.....Peitioners

Vs.

State of Haryana and others

.....Respondents.

Present: Mr. B.S.Tanque, Advocate for the petitioners.
Mr. Jitender Chauhan, Addl. Advocate General, Haryana for respondent No.1.
Mr. Aman Chaudhary, Advocate for respondents 2 and 3.

JUDGMENT

M.M.Aggarwal, J.

As per the petitioners, they were allotted 100 sq yds small plot each under the 20 Point Programme of the Government of India in the year 1976. They had constructed houses thereon and were residing but then the respondents had tried to dispossess them. Then 47 petitioners, including the present petitioners filed Civil Writ Petition No. 9486 of 1988 in which all the facts were taken into consideration by the Court and directions were issued that the area belonging to the petitioners and in their possession be left out from acquisition and if it was not possible, then alternative sites be allotted to them by raising construction similar to the one the petitioners had raised or they be

adequately compensated for construction thereon.

This is a writ petition for compliance of judgment dated 20.11.1990 of this Court in C.W.P.No. 9486 of 1988 (Dharam Pal and others Vs. State of Haryana and another) and also for direction to refund the amount illegally recovered towards the price of plots allotted to the petitioners

This petition was contested. It came out that land/area, which was in possession of the petitioners allotted to them under the 20 Point Programme of the Government of India to rehabilitate them, had not been left out of acquisition and was acquired. Perusal of letter dated 26.9.2002,Copy Annexure P-5, would show that HUDA decided to allot 3 Marla of plot to each of these persons at the rate of Rs.500/- per sq yd in Sector 30, Gurgaon, in lieu of Sector 29 Gurgaon.

During the course of arguments, it was argued that the prices of land in the area of Gurgaon were increasing day-by-day and petitioners were not intentionally vacating the sites acquired, in lieu of which, 3 Marla plots have been allotted.

On behalf of the petitioners, it was argued that possession of 3 Marla plots had not been delivered till this date. That respondents are liable to compensate the petitioners for the constructions which they (petitioners) may be leaving and after making constructions on the allotted plot, then only they could shift.

Final Directions of this Court in Writ petition No.9486 of 1988 were as under:

> "In the circumstances, it is directed that efforts be made to leave out the area belonging to the

> petitioners from the acquisition and if that is not possible then alternative sites may be allotted to them by raising construction similar to the one the petitioners have raised or adequately compensate them for the construction."

The directions were not challenged in the appeal by respondent-State.

From perusal of judgment, which was not challenged, it would come out that petitioners were poor persons. They, each, were allotted 100 sq.yd i.e. 4 Marla plot under 20 Point Programme of the Government of India. They had raised constructions and then were to be ousted since the area allotted and in their possession was acquired. However, it is stated that the area which was in possession of the petitioners was un-developed area and haphazard constructions were raised by the petitioners, whereas the plots of 3 Marla each being allotted to them were in a properly developed area and value of such sites /plots is much more than what the petitioners will be vacating.

In this case, petitioners are stated to be in possession with construction of 4 Marla plot, whereas the plots being allotted are of 3 Marla i.e. 75 sq. yd, and that too, at the rate of Rs.500/- per sq.yd.

After going through various averments and the judgment of this Court dated 20th November, 1990, I am of the view that it would be appropriate if 3 Marla plot is given to each petitioners, as already decided by the respondents, in lieu of 100 sq.yd / 4 marla plots already in possession of the petitioners, with construction. That will be full compensation since the new area is developed area. They will stand compensated for their constructions,

provided no money is taken from them for 3 Marla plot being given in lieu of 4 Marla.

Under these circumstances, this petition is allowed to the extent that let respondents give possession of 3 Marla plot to each petitioners and/ or similarly placed persons, who were party to the writ petition bearing No. 9486 of 1988 within one month, without any payment. Possession be given in one month time. Petitioners and/or similarly placed persons may raise construction on that 3 marla plot within a period of six months of taking possession and then vacate the sites in their possession after removing super-structures/structures, if not removed.

The amount, if any, received by respondent-HUDA as price for 3 marla plot shall be refunded after petitioners and/or similarly placed persons of Civil Writ petition No. 9486 of 1988 vacate the sites in their possession.

(M.M.Aggarwal)
Judge

January 31, 2007
raghav